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Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Subject: Docket No. OP-1198
Interagency Guidance on Overdraft Protection Programs

We are pleased to respond to the Board of Governors' of the Federal Reserve System request for comment concerning the proposed guidance on Overdraft Privilege Programs (ODP). First Bank is headquartered in Strasburg, Virginia with approximately \$380 million in assets, and branch locations throughout Shenandoah, Frederick and Warren Counties. We offer an overdraft program with certain deposit accounts that we refer to as Bounce Protection. Our customers appreciate this service.

We concur with the agencies' general approach in providing Best Practices regarding ODP. However, we have commented below on certain areas of the guidance that we believe that if modified, would better serve the banking industry and consumers. Our comments are in order of the three general sections of the proposed guidance.

I. SAFETY & SOUNDNESS CONSIDERATIONS

Proposed Guidance

The Guidance establishes a clear safety and soundness standard that overdrafts must be charged-off within 30 days.

Comment

We suggest a customer-friendly approach that's based on safety and soundness standards requiring prompt notifications to the customer of the overdraft and an encouragement to bring the account to a positive balance as soon as possible. **We support a longer charge off policy** than the 30 days proposed and **recommend that 90 days** would allow for the reasonable collection of a depositor's account.

Proposed Guidance

When an institution routinely communicates the available amount of: overdraft protection to depositors, these available amounts should be reported as "unused commitments" in regulatory reports. The Agencies also expect proper risk-based capital treatment of outstanding overdrawn balances and unused commitments.

Comment

We believe that this reporting requirement should be reserved only for contractually binding obligations such as traditional overdraft lines of credit or other formalized credit facilities.

II. LEGAL RISKS

No comment.

III. BEST PRACTICES

Proposed Guidance

Institutions that establish overdraft protection programs **should take into consideration** the following practices that have been implemented by institutions and that may otherwise be required by applicable law.

Comment

We believe this language would be problematic because examiners may use the individual Best Practices as a checklist to determine compliance with the Guidance using a “line-by-line” approach rather than as a general guideline for best practices worthy of management consideration.

Proposed Guidance

Program Features and Operation. **Alert consumers before a non-check transaction triggers any fees.** When consumers attempt to use means other than checks to withdraw or transfer funds made available through an overdraft protection program, provide a specific consumer notice, where feasible, that completing the withdrawal will trigger the overdraft protection fees. This notice should be presented in a manner that permits consumers to cancel the attempted withdrawal or transfer after receiving the notice. If this is not possible, then post notices on proprietary ATMs explaining that withdrawals in excess of the actual balance will access the overdraft protection program and trigger fees for consumers who have overdraft protection services. Institutions may make access to the overdraft protection program unavailable through means other than check transactions.

Comment

This section appears to recognize limited availability of ATM providers that can provide such programming, and allows for the posting of signs at bank owned ATMs. The Guidance does not, however, address POS terminals, most of which are located in retail stores throughout the country. The absence of clear guidance concerning the inability of institutions to provide advance notice to consumers at POS may create an expectation that institutions should not make ODP available at POS locations. The ATM and POS systems are driven by the same balance mechanisms. Clearly, customers want access to their ODP limits at these locations, so regulatory forbearance is needed until technology catches up with new banking products.

In conclusion, we believe that our customers value our Overdraft Privilege Program. We believe that our suggested modifications to the agencies' guidance will benefit both financial institutions and consumers. Thank you for your time and consideration.

FIRST BANK

A handwritten signature in black ink, appearing to read "M. S. Bell", is positioned above the printed name.

M. Shane Bell
Senior Vice President & CFO